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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,010	12/14/2000	Carroll Philip Gossett	PGOSS-P002	1445
7590	03/07/2006		EXAMINER	
WAGNER, MURABITO & HAO LLP			PHILPOTT, JUSTIN M	
Third Floor			ART UNIT	PAPER NUMBER
Two North Market Street				2665
San Jose, CA 95113				

DATE MAILED: 03/07/2006

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/738,010	GOSSETT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Justin M. Philpott	2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 31-39 and 55-59 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 31-39 and 55-59 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### *Claim Objections*

1. Claims 35, 36, 55 and 58 are objected to because of the following informalities:
  - in claim 35, line 2, “switch” should be replaced with -- switching circuit --,
  - in claim 36, line 2, “switch” should be replaced with -- switching circuit --,
  - in claim 55, lines 5-6, “said unscheduled cut through routing” should be replaced with -- said unscheduled pre-emptive cut through routing --,
  - in claim 55, lines 10-11, “said information” should be replaced with -- said non-time sensitive information --,
  - in claim 58, line 2, “the down stream channels” should be replaced with -- down stream channels --, and
  - in claim 58, line 2, “the header” has been replaced with -- a header --.
2. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 31-39 and 55-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, independent claim 31 recites, “wherein said probe is discarded if said unscheduled cut-through routing is not performed *directly*” (emphasis added) (lines 6-7) and “discarding said communication path probe and associated information if said unscheduled cut through routing of said probe is not performed *directly*” (emphasis added) (lines 10-11).

Similarly, independent claim 55 recites, “wherein said information is discarded if said unscheduled cut through routing is not performed *directly*” (emphasis added) (lines 5-6), and “said information is dropped if said unscheduled pre-emptive cut through routing is not performed *directly*” (emphasis added) (lines 10-12).

Applicant’s originally filed specification does not recite the phrase “is not performed directly”, and specifically, does not include what “directly” means in this context. Accordingly, claims 31 and 55 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement since these claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 32-39 and 56-59 are rejected for the same reasons discussed above with respect to claims 31 and 55, respectively.

Applicant is suggested to review the specification and amend the claims accordingly to reflect the teachings provided for in the specification. For example, it is noted at page 13, lines 8-12 of the specification that a processor “directs [a] switch circuit 120 to perform cut through routing and not buffer the information”. Applicant is suggested to amend the claims to replace

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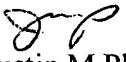
the non-enabling language of "directly" with a limitation reflecting either the above-mentioned or other enabling language.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Justin M Philpott



HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600